

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

<b>IN RE:</b>	)	
	)	
<b>BRENDA ANN CARTER,</b>	)	<b>CIVIL ACTION FILE NO.:</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>MERCANTILE ADJUSTMENT</b>	)	
<b>BUREAU, LLC,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	
	)	

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**COMPLAINT FOR VIOLATION OF THE FAIR DEBT COLLECTION  
PRACTICES ACT, 15 U.S.C. § 1692 ET SEQ., AS AMENDED**

**I. INTRODUCTION**

This is an action for actual and statutory damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., as amended, (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

## **II. JURISDICTION AND VENUE**

Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, and pursuant to 28 U.S.C. § 1367 for pendent State Law Claims. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and the Defendant transacts business here.

## **III. PARTIES**

Plaintiff, Brenda Carter, is a natural person residing in the City of Cartersville, Bartow County, State of Georgia, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

Defendant, Mercantile Adjustment Bureau, LLC, is a limited liability corporation and collection agency, organized under the laws of the State of New York, and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6). The Defendant's principal place of business and operation is located at 6390 Main Street, Suite 160, Williamsville, New York.

#### **IV. FACTUAL ALLEGATIONS**

**(1)**

The Defendant is engaged in the collection of debt allegedly owed to another.

**(2)**

Defendant engages in the purchase or other acquisition of debt for the purpose of collection.

**(3)**

Much of the debt acquired by Defendant is in long-term default and/or included in Bankruptcy proceedings.

**(4)**

On or about January 4, 2008, Plaintiff filed for protection from her Creditors under Chapter 13 of the United State Bankruptcy Code, in the Northern District of Georgia, Rome Division, with her spouse. Their case was assigned number 08-40024, and was confirmed on or about March 13, 2008.

(5)

In Plaintiff's Chapter 13 Bankruptcy case, she named Sears as a Creditor on "Schedule F" (listed as, and in care of, "Central Credit Services, Inc.") on her Voluntary Petition. The debt evidenced by this account was, upon information and belief, purchase by Defendant, its subsidiaries, agents, assignees and/or other related entity.

(6)

On or about October 9, 2009, Mercantile Adjustment Bureau, LLC, made a credit inquiry on Plaintiff's Experian credit report, which reports the Plaintiff's participation in a Chapter 13. A true and exact copy of Page 8 of said "Experian credit report" is attached hereto as "Exhibit "A."

(7)

Plaintiff's Experian credit report states in the Public Records section that the Plaintiff filed for Chapter 13 in January, 2008, case number 08-40024MGD. A true and exact copy of Page 2 of said "Experian credit report" is attached hereto as "Exhibit "B."

(8)

On or about January 11, 2010, the Defendant mailed a collection letter to Plaintiff, Brenda A. Carter, collecting for a debt owed to LVNV Funding for \$7,331.40. The letter states the previous owner of said debt was Sears. A true and correct copy of said "collection letter" is attached as Exhibit "C".

(9)

At all times relevant hereto, the Defendant had constructive and actual notice of the Plaintiff's Bankruptcy and her representation by counsel.

#### **V. CAUSE OF ACTION**

Plaintiff repeats, re-alleges, and incorporates by reference hereto Paragraphs 1 through 9 above.

(10)

Defendant's actions against the Plaintiff constitute numerous and multiple violations of the FDCPA in that Defendant has attempted to collect a debt in contravention of the law; has made false and misleading statements regarding the debt; has intentionally interfered, physical or otherwise, with the solitude, seclusion and/or private concerns or affairs of the Plaintiff; has invaded and intruded upon Plaintiff's right to privacy; and has communicated with a consumer known by the Defendant to be represented by counsel. (See 15 U.S.C. § 1692b(2), 15 U.S.C. § 1692b(6), and 15 U.S.C. § 1692e(10), amongst others.)

## **VI. SUMMARY**

Plaintiff repeats, re-alleges, and incorporates by reference hereto Paragraphs 1 through 10 above.

(11)

As a result of the Defendant's illegal violations of the FDCPA, Plaintiff has and continues to suffer actual damages and emotional distress in the form of humiliation, anger, anxiety, fear, frustration, embarrassment, amongst other negative emotions, as well as suffering from unjustified and abusive invasions of personal privacy at the Plaintiff's home.

(12)

Defendant is liable to the Plaintiff for actual and statutory damages.

(13)

Defendant is liable to the Plaintiff for all attorney's fees and costs associated with Defendant's violations of the FDCPA.

**WHEREFORE**, Plaintiff prays:

- (a) That this Complaint be filed, read and considered;
- (b) That this Court award Plaintiff actual damages pursuant to 15 U.S.C. § 1692(k)(a)(1) and for the emotional distress suffered as a result of the Defendant's willful violations of the FDCPA and invasions of privacy;
- (c) That this Court award Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692(k)(a)(2)(A);
- (d) That this Court award Plaintiff costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692(k)(a)(3); and

(e) For such other and further relief as may be just and proper.

Respectfully submitted this 15<sup>th</sup> day of October, 2010.

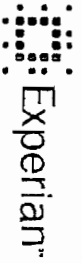
**BERRY & ASSOCIATES**

/s/

Timothy H. Paschall  
Georgia Bar Number: 565670  
Attorney for Plaintiff

2751 Buford Highway, Suite 400  
Atlanta, Georgia 30324  
(404) 235-3300  
Fax: (404) 235-3333  
[Tim@MattBerry.com](mailto:Tim@MattBerry.com)





A world of insight

## Record of requests for your credit history

make your credit history available to your current and prospective creditors and employers as allowed by law. Experian may list these inquiries for up to two years so that you will have a record of the companies that accessed your credit information.

### Inquiries shared only with you

You may not have initiated the following inquiries, so you may not recognize each source. We report these requests to you only as a record of activities, and we do not include any inquiries shared only with you.

- often credit information about you to those with a permissible purpose, for example to:
  - other creditors who want to offer you preapproved credit;
  - an employer who wishes to extend an offer of employment;
  - a potential investor in assessing the risk of a current obligation;
  - Experian Consumer Assistance to process a report for you;
  - your current creditors to monitor your accounts (date listed may reflect only the most recent request);
  - a static copy of your credit report provided to a subsequent user necessary to complete your mortgage loan application.
- inquiries do not affect your credit score.

### SURGENT CAPITAL SERVIC

5 MAIN ST  
GREENVILLE SC 29601  
phone number available

### RKS CREDIT & COLLECTION

20 CORPORATE DR  
ADIRTS PA 19605  
phone number available

### PERCENTILE ADJMENT BUR

90 MAIN ST S-160  
GREENVILLE NY 14221  
phone number available

### SURGENT CAPITAL SERVIC

5 MAIN ST  
GREENVILLE SC 29601  
phone number available

Prepared for  
BRENDA A CARTER  
Report number  
2016-2549-55

Report date  
September 14, 2010  
www.experian.com/disputes  
P.O. Box 2002, Allen, TX 75013

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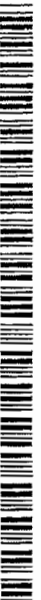
### HSBC NV CARD SERVICES

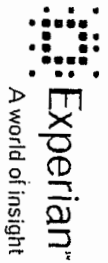
12447 SW 69TH AVE  
TIGARD OR 97223  
Date  
Nov 17, 2008

### CREDIT ONE BANK

PO BOX 98873  
LAS VEGAS NV 89193  
Date  
Sep 2, 2008  
(877) 825-3242

Exhibit "A"





Prepared for  
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2016-2549-55

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September 14, 2010  
www.experian.com/disputes  
P.O. Box 2002, Allen, TX 75013

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## EXHIBIT "B"

potentially negative items or items for further review

This information is generally removed seven years from the initial missed payment that led to the delinquency. Missed payments and most public record items may remain on the credit report for up to seven years, except Chapters 7, 11 and 12 bankruptcies and unpaid tax liens, which may remain for up to 10 years. A paid tax lien may remain for up to seven years. Transferred accounts that have not been past due remain up to 10 years after the date the account was transferred.

### Public records

<b>95 BKPT CT GA ROME</b> PO BOX 5231 ROME GA 30162 No phone number available	Identification number 0840024MCD	Date filed Jan 2008 Date resolved NA	Responsibility Joint	Claim amount \$0 Liability amount \$0	Status: Chapter 13 bankruptcy petition. This item is scheduled to continue on record until Jan 2015. Address identification number: 64897273
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<b>BARTOW CO SUPERIOR CT</b> COUNTY COURTHOUSE CARTERSVILLE GA 30120 No phone number available	Identification number BK99PG22SQBK99P	Date filed Feb 2008 Date resolved NA	Responsibility Joint	Claim amount \$764 Liability amount NA	Status: State tax lien filed. Address identification number: 64897273
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### Credit items

<b>BANK OF AMERICA</b> PO BOX 1390 NEWFOLK VA 23501 (800) 441-0130 <b>Partial account number</b> 525050099876....	Date opened Oct 1999 Reported since Oct 1999	Date of status Jan 2008 Last reported Apr 2008	Type Revolving Terms NA Monthly payment NA	Responsibility Individual	Credit limit or original amount \$12,200 Recent balance \$0 as of Apr 2008 High balance \$4,084	Status: Debt included in Bankruptcy/Never late. Account history: Debt included in Bankruptcy on Jan 14, 2008 This account is scheduled to continue on record until Jan 2015. Address identification number: 64897273
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<b>CHASE BANK USA</b> PO BOX 15298 WILMINGTON DE 19850 (800) 955-9900 <b>Partial account number</b> 549104055069....	Date opened Jul 1999 Reported since Aug 1999	Date of status Feb 2008 Last reported Jun 2008	Type Revolving Terms NA Monthly payment NA	Responsibility Individual	Credit limit or original amount \$21,500 Recent balance NA High balance \$15,927	Status: Petition for Chapter 13 Bankruptcy. \$15,150 written off. Account history: Jan 2008, Dec 2007, Nov 2007 180 days past due as of Oct 2007 150 days past due as of Sep 2007 120 days past due as of Aug 2007 90 days past due as of Jul 2007
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P.O. Box 9016  
Williamsville, NY 14231-9016

12344944  
Forwarding and address correction requested

CDSIPO

**MERCANTILE**  
Innovative Solutions. Exceptional Results.

ACCOUNT NUMBER 5121075007080141	REFERENCE NUMBER 12344944
AMOUNT ENCLOSED \$	

*R08-40024-mgd*

~~MAKE CHECK PAYABLE TO:~~

16272



BRENDA A CARTER  
88 JEWELL RD NW  
CARTERSVILLE, GA 30121-9256

**Mercantile Adjustment Bureau, LLC**  
P.O. Box 9016  
Williamsville, NY 14231-9016  
OR

Secure online payment can be made at:  
<http://www.mercantilewebpymt.com>  
Pass Phrase: 35793

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT

**Mercantile Adjustment Bureau, LLC**  
PO Box 9016  
Williamsville, NY 14231-9016

ACCOUNT NO. 5121075007080141  
REFERENCE NO. 12344944

BRENDA A CARTER  
88 JEWELL RD NW  
CARTERSVILLE, GA 30121-9256

01-11-10  
Prev Cred: SEARS  
Cur Cred: LVNV FUNDING LLC

Your account with LVNV FUNDING LLC has been listed with our office for collection. The balance due is \$7331.40.

Please be advised that our client has authorized us to offer you substantial savings to settle this account. We are authorized to settle this account for reduced amount. This offer is good for a limited time only. Full payment of \$3429.75 must be received on or before 01-27-10.

Contact our office or send payment immediately to take advantage of this limited time offer!

Respectfully,

*Jennifer Hartford*  
Jennifer Hartford  
Mercantile Adjustment Bureau, LLC  
P.O. Box 9016  
Williamsville, NY 14231  
1-866-716-1545

THERE WILL BE A \$20.00 FEE ADDED ON ALL RETURNED CHECKS.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT.  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.